

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
MIDLAND/ODESSA DIVISION**

**JUANITA GARCIA,**  
*Plaintiff,*

**v.**

**VON GRIST, INC., and  
CHRISTOPER GRIST,**  
*Defendants.*

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**MO:20-CV-093-DC**

**ORDER ADOPTING REPORT AND RECOMMENDATION**

BEFORE THE COURT is United States Magistrate Judge Ronald C. Griffin's Report and Recommendation (R&R) filed in the above-captioned cause on May 5, 2021, in connection with the Motion for Default Judgment and Amended Motion for Default Judgment filed by Plaintiff Juanita Garcia (Plaintiff). (Docs. 15, 18, 21). After due consideration, the Court **ADOPTS** the Magistrate Judge's R&R (Doc. 21), **GRANTS** Plaintiff's Amended Motion for Default Judgment (Doc. 18), and **DENIES AS MOOT** Plaintiff's Motion for Default Judgment. (Doc. 15).

**I. BACKGROUND**

On April 13, 2020, Plaintiff filed the instant action seeking overtime compensation pursuant to the Fair Labor Standards Act (FLSA), 29 U.S.C. §§ 201, *et seq.* (Doc. 1). Initially, Plaintiff asserted claims against Lilliana Grist, Von Grist, Inc., and Christopher Grist. *See generally id.* However, Plaintiff voluntarily dismissed her claims against Lilliana Grist on January 5, 2021. (Doc. 13). Further, at the default judgment hearing conducted by the Magistrate Judge, Plaintiff made an oral motion to voluntarily dismiss her claims against Von Grist, Inc. (*See* Doc. 21 at 1). Consequently, Defendant Christopher Grist (Defendant) is the only remaining defendant.

Due to Defendant's failure to answer or appear in this matter, the Court ordered Plaintiff to move for entry of default pursuant to Local Rule CV-55. (Doc. 14). Plaintiff filed her Motion for Default Judgment on March 24, 2021, and filed an Amended Motion for Default Judgment on April 20, 2021. (Docs. 15, 18). The Magistrate Judge conducted a hearing regarding the motions on April 29, 2021. (*See* Doc. 22).

On May 5, 2021, the Magistrate Judge entered his R&R. (Doc. 21). He concludes that entry of default judgment against Defendant is procedurally and substantively appropriate and recommends that the Court grant the Amended Motion for Default Judgment and treat the Motion for Default Judgment as moot. *See generally id.* He further recommends that the Court award Plaintiff (1) \$3,645.33 as unpaid overtime wages; (2) \$3,645.33 in liquidated damages; (3) \$ 3,360.00 in attorney fees; and (4) \$848.00 in costs. *Id.* at 13.

No party has filed an objection to the R&R, and the deadline to do so has expired. Consequently, this matter is ready for disposition.

## II. DISCUSSION

As outlined in the Magistrate Judge's R&R, any party who desires to object to a Magistrate Judge's findings and recommendations must serve and file written objections within fourteen days after being served with a copy of the findings and recommendations. *See* 28 U.S.C. § 636(b)(1). Failure to file written objections to the proposed findings or recommendation within fourteen days after being served with a copy shall bar that party from *de novo* review by the district judge of the proposed findings and recommendations and, except upon grounds of plain error, shall bar the party from appellate review of proposed factual findings and legal conclusions accepted by the district judge to which no objections were filed. 28 U.S.C. §

636(b)(1); *Thomas v. Arn*, 474 U.S. 140, 150–53 (1985); *Quinn v. Guerrero*, 863 F.3d 353, 357 (5th Cir. 2017).

To date, no party has filed objections to the Magistrate Judge’s R&R in this case. The Court, after reviewing the Magistrate Judge’s R&R for clear error, finds it to be neither clearly erroneous nor contrary to law. *See* 28 U.S.C. § 636(b)(1). Accordingly, the Court accepts the Magistrate Judge’s findings and recommendations and adopts the R&R in its entirety.

### III. CONCLUSION

For the reasons stated above, the Court **ACCEPTS** the Magistrate Judge’s findings and recommendations and **ADOPTS** the R&R in its entirety. (Doc. 21).

The Court **ORDERS** that Plaintiff’s Amended Motion for Default Judgment is **GRANTED**. (Doc. 18).

The Court further **ORDERS** that Plaintiff’s Motion for Default Judgment is **DENIED AS MOOT**. (Doc. 15).

Finally, the Court **ORDERS** that Plaintiff’s claims against Defendant Von Grist, Inc. be **DISMISSED WITHOUT PREJUDICE**.

It is so **ORDERED**.

SIGNED this 27th day of May, 2021.

A handwritten signature in black ink, appearing to read 'David Counts', with a stylized star-like flourish at the end.

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DAVID COUNTS  
UNITED STATES DISTRICT JUDGE